

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRYAN MICHAEL FERGASON,

Case No. 2:19-cv-00946-GMN-BNW

Petitioner,

v.

ORDER

CALVIN JOHNSON, et al.,

Respondents.

This habeas matter is poised for merits review. The respondents, however, appear to have omitted from their filing of the state court record (1) the transcript of proceedings for the state district court’s postconviction review hearing held on March 29, 2016; (2) the transcript of Brent Engle’s testimony, which was read to the jury but not transcribed into the trial transcript; and (3) the presentence investigative report. *See* ECF Nos. 43-1 at 88; 44-24 at 89-90; *see also* Rules Governing Section 2254 Cases, Rule 7; *McDaniels v. Kirkland*, 813 F.3d 770, 773 (9th Cir. 2015) (en banc) (holding federal habeas courts “may consider the entire state-court record, including evidence that was presented only to the trial court.”); *Nasby v. McDaniel*, 853 F.3d 1049, 1052–54 (9th Cir. 2017) (remanding to the district court with instructions to consider the entire state court record).

IT IS THEREFORE ORDERED:

1. Respondents have until **February 20, 2024**, to file, as supplemental exhibits, (1) the transcript of proceedings for the state district court’s postconviction review hearing held on March 29, 2016; (2) the transcript of Brent Engle’s testimony, which was read to the jury but not transcribed into the trial transcript; and (3) the presentence investigative report.


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2. The petitioner will have 15 days after the respondents file the supplemental exhibits to admit or deny the correctness of the supplemental exhibits.

DATED: January 22, 2024


GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE